

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

PHILIP TUCKER and TONI HOTTEN,  
husband and wife,

CV 09-1491-AC

Plaintiffs,

ORDER ON OBJECTIONS TO  
DEPOSITION DESIGNATIONS

v.

CASCADE GENERAL, INC., an Oregon  
corporation, and UNITED STATES OF  
AMERICA,

Defendants.

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ACOSTA, Magistrate Judge

This order addresses the parties' proposed deposition designations, which appears in the court file as Docket No. 95 (Plaintiffs' deposition designations) and Docket No. 89 (United States' deposition designations). Cascade General did not file proposed deposition designations.

**PLAINTIFFS' DEPOSITION DESIGNATIONS**

No objections were submitted by Defendants to Plaintiffs' designation of excerpts from the deposition of Darren Stevens.

**CASCADE GENERAL'S DEPOSITION DESIGNATIONS**

Cascade General did not designate any deposition testimony.

**UNITED STATES' DEPOSITION DESIGNATIONS**

**I. Plaintiffs' Objections**

A. Dr. David Adler

**RULING: OVERULED as to hearsay.** Plaintiffs do no specify which portions of the designated excerpts are objectionable hearsay. **SUSTAINED as to witness availability.** Deposition excerpts may be used on as allowed under Federal Rule of Evidence ("Rule") 32.

B. Robert Baker

**RULING: OVERULED as to hearsay.** Plaintiffs do no specify which portions of the designated excerpts are objectionable hearsay. **SUSTAINED as to witness availability.** Deposition excerpts may be used on as allowed under Federal Rule of Evidence ("Rule") 32.

C. Roger Braun

**RULING: OVERULED as to hearsay.** Plaintiffs do no specify which portions of the designated excerpts are objectionable hearsay. **SUSTAINED as to witness availability.** Deposition excerpts may be used on as allowed under Federal Rule of Evidence ("Rule") 32.

D. Dr. Jaime Nicacio

**RULING: OVERULED as to hearsay.** Plaintiffs do no specify which portions of the designated excerpts are objectionable hearsay. **SUSTAINED as to witness**

availability. Deposition excerpts may be used on as allowed under Federal Rule of Evidence (“Rule”) 32.

## II. Cascade General’s Objections

### A. Steven Ross Cinkowski

**RULING: SUSTAINED.**

Cinkowski must be produced unless the United States demonstrates that Rule 32 applies. Further, the court **SUSTAINS** the objections to the leading questions and, and answers thereto, appearing on pages 28, 34, 108, 112, and 114.

### B. Lindsay Docherty

**RULING: OVERRULED.** Rule 23(a)(3) allows use of a deposition of a party, agent, or designee.

### C. Darren Stevens

1. Page 14, lines 8-11: **SUSTAINED.**

2. Page 34, lines 3-25: **SUSTAINED** as to lines 8-15; otherwise **OVERRULED.**

3. Page 35, line 24, through page 36, line 15: **SUSTAINED.**

4. Page 40, lines 20-25: **OVERRULED.**

5. Page 47, lines 3-6: **SUSTAINED** as argumentative.

6. Page 50, lines 2-9: **SUSTAINED** as to lines 6-8; otherwise **OVERRULED.**

7. Page 50, line 20, through page 51, line 12: **SUSTAINED** as argumentative as to page 50, lines 24-25, and page 51, lines 4-12; otherwise, **OVERRULED.**

8. Page 51, lines: **SUSTAINED.**

9. Page 52, line 24, through 53, line 7: **SUSTAINED.**

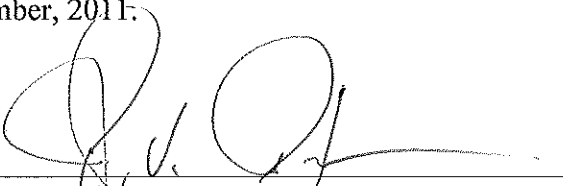
10. Page 56, lines 4-18: **SUSTAINED.**

11. Page 59, lines 5-16: **OVERRULED.**

12. Page 62, lines 22 through page 63, line 8: **OVERRULED.**

IT IS SO ORDERED.

DATED this 9<sup>th</sup> day of November, 2011.

  
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John V. Acosta  
U.S. Magistrate Judge